

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

Ana R. Olivella Rivera
PLAINTIFF

Vs.

Popular Leasing and Rental, Inc.,
and others.

DEFENDANTS

Civil No. 98-2267

**CREDIT COLLECTION
DAMAGES**

**RESPONSE AND OPPOSITION TO BANCO POPULAR
PUERTO RICO MOTION IN OPPOSITION TO SANCTIONS**

TO THE HONORABLE COURT:

COMES NOW Plaintiff through the undersigned attorneys and respectfully alleges and prays:

1. Banco Popular of Puerto Rico has filed a motion in opposition to our request for sanctions. Plaintiff respectfully reply said motion for the allegation certain thereto are not true; and the time delay caused by Defendant Banco Popular of Puerto Rico are entirely omitted by said party.

2. Moreover, Popular Leasing and Rental a subsidiary of Banco Popular of Puerto Rico has utterly and manifestly disregarded the pre-trial orders of the Honorable Court, the order to show cause, the payment of

sanction and the production of either the transcript of Mrs. Sylvia Cardona and/or her person to be deposed for a second time. These collective failures by Popular Leasing and Rental, regarding these four orders, have created undue hardship to Plaintiff for it has produce unwarranted pressure to comply with the January 15, 2006, deadline.

3. Plaintiff therefore request that Rule 11 sanction be apply as well as sanction under Rule 16 © of the Federal Rules of Civil Procedure; which grants sufficient authority to the Honorable Court to order the elimination of all pleading, entire a default order and strike a motion for summary judgment from second. See our prior docket file.

4. Again we request these sanctions for also Banco Popular of Puerto Rico was tardy in its response to a letter dated December 7, 2005, whereby it requested various dates but she failed to produce a date or reply. (See Docket #138).

5. It was by coincidence that attorney Mrs. Otero appeared at hearing in a state case on December 16, 2005. One day after the time table given by Honorable Court to produce the deposition of Mrs. Sylvia Cardona or her person.

6. Mrs. Sylvia Cardona gave us a date on December 21, 2005, not available to undersigned due to a very complicated malpractice trial.

7. But it was because of this coincidence between both attorneys; and not her diligence that brought forward the attention to this Honorable Court regarding the delay of both defendants Banco Popular of Puerto Rico.

8. Therefore, Banco Popular of Puerto Rico is late not only with complying with the November 29, 2005, order regarding witness Mrs. Sylvia Cardona, its availability in person and/or regarding the production of the transcript of her deposition, but also its failure to produce a reply of our letter dated December 7, 2005. (Docket 138). It was because of said coincidental meeting between Mrs. Otero and undersigned, nine (9) days after the letter, she first verbally responded in a place not suited for: In the halls of a state court when a case that was been litigated with seven (7) attorneys.

9. Now after almost a month on December 22, 2005, she finally informs us of a date available to undersigned. This date is January 17, 2005, two (2) days after the deadline to depose an initial key witness

whose deposition has been conveniently lost by Popular Leasing and Rental and/or Banco Popular of Puerto Rico.

9. Therefore, due to this unwarranted situation, this Honorable Court will attest the undue pressure brought by both parties to Plaintiff' legal representantion in the litigation of this case.

10. Again Plaintiff request severe sanction to both Defendant who have not complied with the order of the Honorable Court regarding the deposition of said witness.

RESPECTFULLY SUBMITTED.

I CERTIFY that on this same date I have filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following: Attorney Ana María Otero and by regular mail to Attorney David López Pumarejo, at P.O. Box 195351, San Juan, PR 00919-5351.

In Caguas, Puerto Rico, this 23 days of December, 2005.

/RAFAEL A. OLIVERAS LOPEZ DE VICTORIA
RAFAEL A. OLIVERAS LOPEZ DE VICTORIA
USDC: 119606
4G9, CALLE 2, 4TA. SECCION
URB. VILLA DEL REY
CAGUAS, PR 00727-6704
TEL: 744-8588/ FAX: 703-0977

Email: roliveralv@prtc.net